

HOUSE BILL NO. 95

INTRODUCED BY B. LAWSON

A BILL FOR AN ACT ENTITLED: "AN ACT SUBSTITUTING A SERIOUS PHYSICAL CONDITION, DISEASE, OR SYNDROME FOR AN INCAPACITATING PHYSICAL CONDITION, DISEASE, OR SYNDROME AS ONE OF THE TESTS FOR MEDICAL PAROLE; AND AMENDING SECTION 46-23-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-23-210, MCA, is amended to read:

"46-23-210. Medical parole. (1) The board may release on medical parole by appropriate order a person placed in a correctional institution or program, except a person under sentence of death. To be eligible for a medical parole, a person must have an examination and written diagnosis by a physician licensed under Title 37 to practice medicine. The diagnosis must include:

(a) a determination that the person suffers from ~~an incapacitating~~ a serious physical condition, disease, or syndrome;

(b) a description of the serious physical condition, disease, or syndrome ~~and a detailed description of the person's physical incapacity~~; and

(c) a prognosis addressing the likelihood of the person's recovery from the serious physical condition, disease, or syndrome and the extent of any potential recovery.

(2) The diagnosis must be reviewed and accepted by the department before the board may consider granting a medical parole. The board may not grant a medical parole unless the ~~incapacitating~~ serious physical condition, disease, or syndrome renders the person highly unlikely to present a clear and present danger to public safety.

(3) The board shall require as a condition of medical parole that the person agree to placement in an environment chosen by the department during the parole period, including but not limited to a hospital, nursing home, or family home. The board may require as a condition of parole that the person agree to periodic examinations and diagnoses at the person's expense. Reports of each examination and diagnosis must be submitted to the board and department by the examining physician. If either the board or department determines that the person's physical ~~capacity~~ condition has improved to the extent that the person is likely to pose a

1 possible detriment to society, the board may revoke the parole and return the person to the custody of the
2 department.

3 (4) Medical parole may be requested by the board, the department, an incarcerated person, or an
4 incarcerated person's parent, grandparent, child, or sibling by submitting the request in writing to the
5 administrator of the correctional institution in which the person is incarcerated.

6 (5) A grant or denial of medical parole does not affect the person's eligibility for nonmedical parole.

7 (6) Sections 46-23-203, 46-23-205 through 46-23-207, and 46-23-215 through 46-23-218 apply to
8 nonmedical parole."

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